

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Kimberly M. Russell,

Plaintiff,

v.

FN America, LLC,

Defendant.

C/A No.: 3:23-cv-4713-SAL

**ORDER**

There are a number of motions pending in this case, including a motion for judgment on the pleadings by Defendant FN America, LLC, ECF No. 22, and two motions to dismiss by Plaintiff Kimberly M. Russell, ECF Nos. 44 and 50. On February 26, 2024, United States Magistrate Judge Shiva V. Hodges issued a Report and Recommendation, in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), recommending that Plaintiff's motion for voluntary dismissal be granted, but recommending the dismissal be with prejudice. [ECF No. 46.] Attached to the Report was a notice advising Russell of the procedures and requirements for filing objections to the Report and the serious consequences if she failed to do so. *Id.* at 3. Rather than file objections, Russell filed a second motion for voluntary dismissal, which states only "Please grant my motion for voluntary dismissal from the case # 3:23-cv-04713-SAL-SVH." [ECF No. 50.]

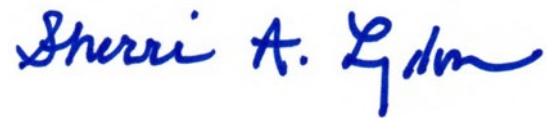
The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to,

and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

Having thoroughly reviewed the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 46, and incorporates the Report by reference herein. The court agrees with the magistrate judge’s reasoning for recommending this case be dismissed with prejudice, and Russell has not objected to that recommendation, nor has she requested that her case be voluntarily dismissed without prejudice. Additionally, neither of her motions request that the dismissal be without prejudice. Accordingly, Plaintiff’s motions to dismiss, ECF Nos. 44 and 50, are **GRANTED**, and this case is **DISMISSED WITH PREJUDICE**. Defendant’s motion for judgment on the pleadings, ECF No. 22, is **TERMINATED AS MOOT**.

**IT IS SO ORDERED.**

April 18, 2024  
Columbia, South Carolina



Sherri A. Lydon  
United States District Judge